or otherwise, of any property, real or personal, of and belonging to the said defendant corporation.

Third—Said defendants, and each of them, jointly and severally aver that they have carefully read, and thoroughly understand, the answer of the defendant corporation, to which this answer of these defendants is attached, and said defendants, and each of them, jointly and severally here now adopt said answer of said defendant corporation, and incorporate the same into this their answer as part thereof, with the same force and effect as if the same were here at large set forth. And said defendants, and each of them, severally aver that to the best of their knowledge, information and belief, and to the best of the knowledge, information and belief of each and every of them severally, each and all of the averments and allegations of said answer of said defendant corporation are true in substance and in matter of fact as they verily believe.

Wherefore and by reason of the facts herein set forth, said defendants pray the court that they may be dismissed hence with their proper costs and charges in this behalf laid out and expended.

JAMES O. BROADHEAD,
J. E. MCDONALD,
F. S. RICHARDS,
LE GRAND YOUNG.
Solicitors for said Defendant Corporation.

IN THE SUPREME COURT OF THE TERRITORY OF UTAH. No.....
OF.....TERM.

In Equity.

The United States of America, Plaintiff,

vs.

The late corporation of the Church of Jesus Christ of Latter-day Saints, and John Taylor, late Trustee-in-Trust, and Wilford Woodruff, Lorenzo Snow, Erastus Snow, Franklin D. Richards, Brigham Young, Moses Thatcher, Francis M. Lyman, John Henry Smith, George Teasdale, Heber J. Grant and John W. Taylor, late Assistant Trustees-in-Trust of said corporation, William B. Preston, Robert T. Burton and John R. Winder, defendants.

The joint and several answer of William B. Preston, Robert T. Burton and John R. Winder.

William B. Preston, Robert T. Burton and John R. Winder, made defendants in the above entitled cause, now and at all times hereafter saving and reserving unto themselves jointly, and unto each of them severally, all benefit and advantage of exception which can or may be had or taken to the many errors, uncertainties and other imperfections of the plaintiff's bill of complaint, jointly and severally for answer thereto, or to so much, or to such parts thereof, as these defendants, and each of them severally are advised is material or necessary to make answer unto, answering say:

First—That on the 9th day of May, A. D. 1887, the said defendants, Wm B. Preston, Robert T. Burton, and John R. Winder, were duly appointed by the Probate Court of Salt Lake County, Utah Territory, Trustees to take the title to, and have and hold the real estate belonging to the Church of Jesus Christ of Latter-day Saints. That said appointment was made by said Probate Court on the nomination of the duly constituted authorities of said Church of Jesus Christ of Latter-day Saints, in due form of law, under and in pursuance of an act of Congress entitled "An act to amend an act entitled 'An act to amend section 5352 of the Revised Statutes of the United States, in reference to bigamy and for other purposes,' approved March 22, 1882."

Second.—That after the appointment of said defendants as such Trustees as aforesaid, to-wit: On the 30th day of June, A. D, 1887, the following described land and premises were duly and legally deeded, conveyed, and transferred to said defendants, as such Trustees, to-wit: All of Block eighty-seven (87), Plat A, Salt Lake City survey, in Salt Lake County, Utah Territory.

That on the 2d day of July, 1887, the following described tracts of land and premises were duly and legally deeded, conveyed and transferred to said defendants, as such Trustees so appointed as aforesaid, to-wit: Commencing four (4) rods north of the southwest corner of Lot four (4), Block eighty-eight (88), Plat A, Salt Lake City survey; thence north twenty-six (26) rods; thence east twenty (20) rods; thence south twenty-two and one half (22½) rods; thence west fourteen (14) rods; thence south three and one half (3½) rods; thence west six (6) rods, to the place of beginning, containing 2 157-160 acres. Also, all of the east half of Lot six (6), in Block seventy-five (75), Plat A, Salt Lake City survey, and bounded as follows: Commencing at the northeast corner of said lot, thence south ten (10) rods; thence west ten (10) rods; thence north ten (10) rods; thence east ten (10) rods, to the place of beginning. All of which will more fully appear from the records of the Recorder's office of Salt Lake County, Utah Territory, where said deeds of transfer are duly recorded, as provided by law.

Third—That upon the execution and delivery of the deeds of conveyance of said land premises to the said defendants, Wm. B. Preston, Robert T. Burton and John R. Winder, as Trustees, as aforesaid, they entered upon and took possession of each and every of the parcels and tracts of land aforesaid, and have ever since held, and now hold the legal title and possession thereof in trust for the said Church of Jesus Christ of Latter-day Saints.

Fourth—The said defendants, and each of them, jointly and severally aver, that they do not hold in trust, or otherwise, or possess any other real or personal property of, or belonging to said Church of Jesus Christ of Latter-day Saints, save and except that which is hereinbefore described, and a piece of the aforesaid Lot six (6), in Block seventy five (75), Plat A, Salt Lake City survey, described as follows: Commencing at a point ten (10) rods west of the northeast corner of said lot and running thence south ten (10) rods: thence west seven (7) rods; thence north ten (10) rods; thence east seven (7) rods; which said piece of land was intended to be conveyed to these defendants, as Trustees as aforesaid, at the same time and by the same deed as that which conveyed the east half of said lot to them. But the same was, by mistake of the draftsman of said deed, erroneously omitted therefrom.

Fifth—The said defendants, and each of them, jointly and severally aver, that they have carefully read, and thoroughly understand, the answer of the defendant corporation on file herein, and said defendants, and each of them, jointly and severally here now adopt said answer of said defendant corporation, and hereby incorporate the same into this their answer, as part thereof, with the same force and effect as if the same were here at large set forth. And said defendants, and each of them severally aver that to the best of their knowledge, information and belief and to the best of the knowledge, information and belief of each and every of them, each and all the allegations and averments of said answer of said defendant corporation, are true in substance and in matter of fact, as they verily believe.

Wherefore, and by reason of the facts herein set forth, said defendants pray the court that they may be dismissed hence with their proper costs and charges in this behalf laid out and expended.

JAMES O. BROADHEAD,
J. E. MCDONALD,
FRANKLIN S. RICHARDS,
LE GRANDE YOUNG,
Solicitors for said Defendants.

IN THE SUPREME COURT OF THE TERRITORY OF UTAH. No.
.....OF.....TERM.

In Equity.

The United States of America, Plaintiff,

vs.

The Perpetual Emigrating Fund Company, Albert Carrington, F. D Richards, F. M. Lyman, H. S. Eldredge, Joseph F. Smith, Angus M. Cannon, Moses Thatcher, John R. Winder, Henry Dinwoodey, Robert T. Burton, A. O. Smoot and H. B. Clawson, defendants.

The Joint and several answer of the Perpetual Emigrating Fund Company, Albert Carrington, F. D. Richards, F. M. Lyman, H. S. Eldredge, Joseph F. Smith, Angus M. Cannon, Moses Thatcher, John R. Winder, Henry Dinwoodey, Robert T. Burton, A. O. Smoot and H. B Clawson, defendants to the bill of complaint exhibited against them in this court by the United States, respectfully shows:

These defendants now and at all times hereafter, saving and reserving to themselves all manner of exceptions to the many insufficiencies, uncertainties and inconsistencies in said bill contained, and praying the same benefits of this answer as though they had pleaded or demurred to the said bill of complaint, for answer thereto or to so much thereof as they are advised is necessary or material for them to answer, answering say:

First: These defendants admit that on the 24th of September 1850, the Assembly of the Provisional Government of the State of Deseret, which was afterwards organized as the Territory of Utah, passed an ordinance authorizing the incorporation of the Perpetual Emigrating Fund Company, which ordinance was afterwards, on the 12th day of January, 1856, re-enacted and amended by an act of the Legislative Assembly of the Territory of Utah, and that in pursuance of the provisions of the said ordinance and act the Perpetual Emigrating Fund Company was organized as a corporation and has exercised the powers conferred upon it by the aforesaid acts of incorporation.

Second. These defendants admit that the Perpetual Emigrating Fund Company was, on the 19th day of February 1887, a corporation for the purposes expressed in the said acts of incorporation, and still continues to exist as a corporation, and avers that by virtue of the said acts of incorporation it is entitled to and has perpetual succession.

Third. These defendants admit that Albert Carrington is the president of said corporation, and that F. D. Richards, F. M. Lyman, H. S Eldredge, Joseph F. Smith, Angus M. Cannon, Moses Thatcher, John R. Winder, A. O. Smoot and H. B. Clawson are assistants, and that the said persons constitute the officers of said corporation.

Fourth. These defendants admit that in pursuance of the powers conferred upon said corporation by its said charter it has, from time to time, received donations in money and other personal property, all of which it has, from time to time, expended for the uses and purposes in the said charter provided, but aver that it has never held or owned at any time since its incorporation any real estate whatsoever; that the contributions to its funds have been by it expended, as they have been contributed, and that at no time has any fund remained on hand for any length of time; that it did not on the 19th day of February, 1887, nor on the 3rd day of March, 1887, hold, own or possess any real or personal property whatsoever, save and except certain promissory notes, which had been theretofore given to it by emigrants in payment of advances made by the said corporation to them to assist them in their emigration, and which said notes are for the most part barred by the statute of limitations, uncollectable, and of no value, and wholly worthless.

Fifth. These defendants admit that on the 19th of February, 1887, an act was passed by the Senate of the United States, by which the ordinances of the Provisional Government of the State of Deseret, as re-enacted and amended by the act of the Legislature of the Territory of Utah, was attempted and pretended to be disapproved, annulled and repealed, and the corporation of the Perpetual Emigrating Fund Company was attempted and pretended to be dissolved, and all of its property and assets in excess of its debts and lawful claims were attempted and pretended to be escheated to the United States, but aver that the said act did not become a law until the 3rd day of March, 1887. And your defendants aver that the said act did not, and could not lawfully dissolve or disincorporate the said Perpetual Emigrating Fund Company; that by the terms of the acts of incorporation hereinbefore referred to the said corporation was granted perpetual succession, and that by the acceptance of the said charter the said acts aforesaid became contracts between the incorporators of said corporation, on the one part, and the Territory of Utah and the United States on the other part; and your defendants further aver that it was not within the constitutional powers of the Congress of the United States to repeal or annul the said charter, or to disincorporate the said corporation without its consent. Further answering, these defendants aver that no power or authority existed in the Congress of the United States to escheat the property of said corporation to the United States, and that so much of said act of March 3, 1887, as pretends or attempts to dissolve the said corporation or escheat its said property is contrary to the provisions of the Constitution of the United States in this behalf and absolutely null and void.

Sixth. These defendants deny that the charter of said corporation has been lawfully repealed, or that the said corporation has been lawfully dissolved, but, on the contrary, aver that the said coporation lawfully exists, and that its officers are rightfully entitled to exercise all the powers and functions granted to them by said acts of incorporation in the bill of complaint mentioned.

Seventh—These defendants deny that since the 19th of February, 1887, there has been no person lawfully authorized to take charge of the affairs or property of the said corporation, but, on the contrary, aver that there was at that time, and still is, a duly elected president of said corporation and duly elected assistants, all of whom have duly qualified in their said respective offices, and are authorized and empowered to take charge of any and all property and assets belonging to the said corporation should any exist.

Eighth—And the said Albert Carrington, F. D. Richards, F. M. Lyman, H. S. Eldredge, Joseph F. Smith, Angus M. Cannon, Moses Thatcher, John R. Winder, A. O. Smoot and H. B. Clawson, each for himself, further answering say, that they and each of them have no individual or personal interest in any of the matters or things in the said bill of complaint contained, or any interest other than officers of the said corporation, and that they and neither of them have or hold for the said corporation, nor did they on the 19th of February, 1887, or the 3rd of March, 1887, have or hold any property, real, personal or mixed, whatever, save and except the promissory notes hereinbefore referred to.

Ninth. And the said Henry Dinwoodey and Robert T. Burton, each for himself, further answering said bill of complaint, aver and say that they are not now, nor were they on the 19th day of February, 1887, nor at any time since, assistants or other officers of the said corporation of the Perpetual Emigrating Fund Company, nor did they then, nor have they since, held or owned any property, real or personal, in trust or otherwise, for the said corporation.

And these defendants, having answered fully the said bill of complaint, or so much thereof as they are advised is necessary or material for them to make answer to, pray that the prayer of the said bill be denied, and that they be hence dismissed with their costs in this behalf incurred.

JAMES O. BROADHEAD,
JOS. E. MCDONALD,
F. S. RICHARDS,
LE GRAND YOUNG.
Solicitors for Defendants.

Judge Zane—Are there any further steps you desire taken this evening?

Mr. Peters—We have nothing further to present.

Judge Zane—You will desire leave to file your application?

Mr. Peters—Yes, sir; within the time allowed by the rule—twenty days.

Mr. Richards — We have nothing further to say.

Col. Broadhead—The usual method of taking testimony, under the sixty-eighth rule, as amended, is by an examiner. He can be appointed by the clerk of the court, I believe. The testimony is taken by questions and answers. If any question arises it can be settled by the court.

Mr. Peters—I suggest that the court adjourn to Dec. 1st; we may then be ready for another step. That is as early as we can accomplish anything.

Judge Boreman—How would Nov. 26th do?

Mr. Peters—That will hardly give time.

Judge Zane—Well, adjourn court over to the 30th day of November, at 8 o'clock in the evening.

The court was then adjourned.

A JUDGE'S BLUNDER.

Andrew Calton's Execution Deferred in Consequence.

The following is a copy of the court record of the judgment against Andrew Calton, who shot Michael Cullen:

In the District Court of the Second Judicial District, Territory of Utah, county of Beaver, Sept. 29th, of the September Term, A. D. 1887.

Present, the honorable Jacob S. Boreman, Judge. The People of the Territory of Utah, plaintiff, vs. Andrew Calton, defendant, convicted of murder.

After mentioning C. W. Zane as attorney for the people, and Counsel Denny and Christian for the defendant, being duly informed of the nature of the indictment, charging Calton with having killed Cullen on the 14th of July, 1887; arraigned, plead not guilty; after the trial the jury's verdict, "guilty as charged;" and when asked to select whether he would prefer to be shot or hanged, he elected to be shot; the Court thereupon renders its judgment: That, whereas, the said Andrew Calton has been duly convicted in the court, of the crime of murder in the first degree; it is, therefore, ordered, adjudged and decreed, that the said Andrew Calton be taken hence by the United States Marshal, to a place of confinement within this Territory; that he there be safely kept in confinement until the 26th of November, A. D. 1887; that between the hours of 10 o'clock in the forenoon and 4 o'clock in the afternoon of that day, he be taken, and in this judicial district, be publicly shot till he is dead.

The Territorial law on the subject of executions is as follows:

SEC. 336.—A judgment of death must be executed within the walls or yard of a jail or some convenient private place in the district. The proper officer must be present, with such assistance as he may need, at the execution, and must invite the presence of a physician, and the prosecuting attorney, and he shall, at the request of the defendant, permit such ministers of the gospel, not exceeding two, as the defendant may name and any person, relatives and friends, not to exceed five, to be present at the execution, together with such peace officers as he may think expedient, to witness the execution. But no other persons than those mentioned in this section can be present at the execution, nor can any person under age be permitted to witness the same.

It was claimed that, as Calton had been brought to the penitentiary for confinement, he could not be taken back to Beaver on the 26th in time to be shot. This point would not affect the judgment, as the Marshal could easily get him to a "convenient private place in the district" on the morning of the day set for the execution. The fatal error lies in the fact that Judge Boreman sentenced Calton to be "publicly shot," the death warrant containing the same direction to the Marshal, while the law requires that the execution shall be private and shall be witnessed only by certain persons. The effect of this blunder is that the condemned man will have to be taken to Beaver and be re-sentenced.

ESTRAY NOTICE.

I HAVE IN MY POSSESSION:

One red OX, 5 or 6 years old, under half crop and upperbit in left ear, and two swallow forks on end of right ear, and branded)(on left side.

If the above described animal is no claimed and taken away on or before November 14th, 1887, it will be sold to the highest cash bidder, at the estray pound Circle Valley Precinct, Piute County vember 14th, 1887.

JAMES WHITTAKER,
Poundkeeper.

November 3, 1887.